

HAWAII COASTAL ZONE MANAGEMENT PROGRAM

FEDERAL CONSISTENCY PROCEDURES GUIDE

Department of Planning and Economic Development
State of Hawaii

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TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
HOW TO USE THE GUIDE	3
I. FEDERALLY CONDUCTED AND SUPPORTED ACTIVITIES	5
II. ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT	11
III. OUTER CONTINENTAL SHELF (OCS) EXPLORATION DEVELOPMENT AND PRODUCTION ACTIVITIES	17
IV. FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS	21
CZM ASSESSMENT AND SUPPLEMENTAL INFORMATION FORM	27
APPENDIX - NATIONAL CZM ACT & FEDERAL REGULATIONS GOVERNING FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS, CITATIONS	40

INTRODUCTION

The Hawaii Coastal Zone Management Program (HCZMP) is an expression of State policy to guide the use, protection, and development of land and ocean resources within Hawaii's coastal zone. The cornerstone of the program is the Hawaii Coastal Zone Management (CZM) law, Chapter 205A, Hawaii Revised Statutes.

The law's objectives and policies address recreational, historic, scenic and open space resources, coastal ecosystems, economic uses, coastal hazards and managing development. For each of seven major objectives, there is an accompanying set of policies which are more specific statements of intent for carrying out each objective. The objectives and policies for the seven categories are found in the CZM Assessment Form in this guide.

State Management Network

In addition to the Hawaii CZM law, there are many other State statutes which authorize regulations, plans, and review processes for activities affecting Hawaii's land and ocean environment. Those which relate directly to the CZM objectives and policies have been incorporated in the HCZMP as supporting policies and mandates. They make up what is known as the "management network." Federal agency activities and actions should be consistent with the management network in the context of the CZM objectives and policies.

Federal Activities

The National CZM Act of 1972, as amended (16 U.S.C. 1451 et. seq.) requires Federal agencies to conduct their planning, management, development and regulatory activities in a manner consistent with State CZM programs. The Federal regulations for "Federal Consistency with Approved Coastal Management Programs" (15 Code of Federal Regulations, Part 930) establish the informational and procedural requirements which are binding on all Federal agencies. Under these regulations, the review for consistency is conducted by the State's CZM lead agency. In Hawaii, this is the Department of Planning and Economic Development (DPED).

Consistency Review Process

The review process generally involves 1) a determination by an activity's proponent as to whether it is consistent with the CZM program; 2) submission of the determination and other required information to the DPED; and 3) DPED concurrence with or objection to the determination. Although there are procedural variations depending on the type of activity to be undertaken, the guiding purpose of the entire process is to identify and resolve potential conflicts early in the Federal agency's decision-making process.

This guide describes the basic steps involved in processing consistency applications. It also clearly indicates where opportunities for coordination and consultation occur. If these opportunities are pursued by

all parties involved, the Federal activity will likely result in one that is compatible with the objectives and policies of the Hawaii CZM Program.

Meeting the CZM consistency review requirement does not exempt the applicant from complying with requirements of other Federal review processes such as those of State Clearinghouse under Presidential Executive Order 12372. The CZM review is meant to complement rather than duplicate other Federal review processes.

HOW TO USE THIS GUIDE

1. DETERMINE THE APPROPRIATE REVIEW CATEGORY

Federal regulations describe four categories of activities for the Federal consistency review process. They have slightly different procedures and consistency standards of review.

For all categories, the coastal zone is defined as all land areas within the State except for State forest reserves. Seaward, the coastal zone includes all waters and submerged lands to the limit of the State's jurisdiction. Federal lands are excluded from the coastal zone.

SECTION I - Federally Conducted and Supported Activities

This section covers those Federal agency activities which directly affect Hawaii's coastal zone. They include Federal plans, programs, development projects, regulations, and the acquisition and disposal of lands. When these activities are conducted on excluded lands, they are exempt from the CZM review procedures and consistency standards. If the impacts of these activities extend to the State's coastal zone, however, the exemption is negated.

The requirements of this category also apply to cases in which one Federal agency is applying to another for a license or permit.

SECTION II - Activities Requiring a Federal License or Permit

This section covers those activities affecting the coastal zone that require Federal licenses, permits, or other forms of permission. Federal leases are included in this definition. A list of the applicable permits and licenses is provided in the section describing the review procedures and consistency standards.

SECTION III - Outer Continental Shelf (OCS) Exploration, Development and Production Activities

In Hawaii, the only such actions likely to affect Hawaii's coastal zone are seabed mining and production of manganese crusts.

SECTION IV - Federal Assistance to State and Local Governments

This section deals with activities undertaken with Federal assistance. It describes the review procedures for CZM consistency for applications for categorical Federal funding programs. A list of the applicable programs is included at the beginning of the section.

2. REFER TO THE APPROPRIATE DESCRIPTIVE SECTION

Each section describes the steps of the review process, lists information requirements, and indicates how long the review may take. Responses to frequently asked questions are included to clarify points about the processes.

3. SUBMIT MATERIALS TO THE DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT

The information needed for DPED review is listed in each section. Although they vary by activity, the basic CZM Assessment Form in this guide will satisfy one information requirement for all sections. The completed materials and form should be submitted to:

Department of Planning and
Economic Development
P.O. Box 2359
Honolulu, Hawaii 96804
Attention: Hawaii CZM Program

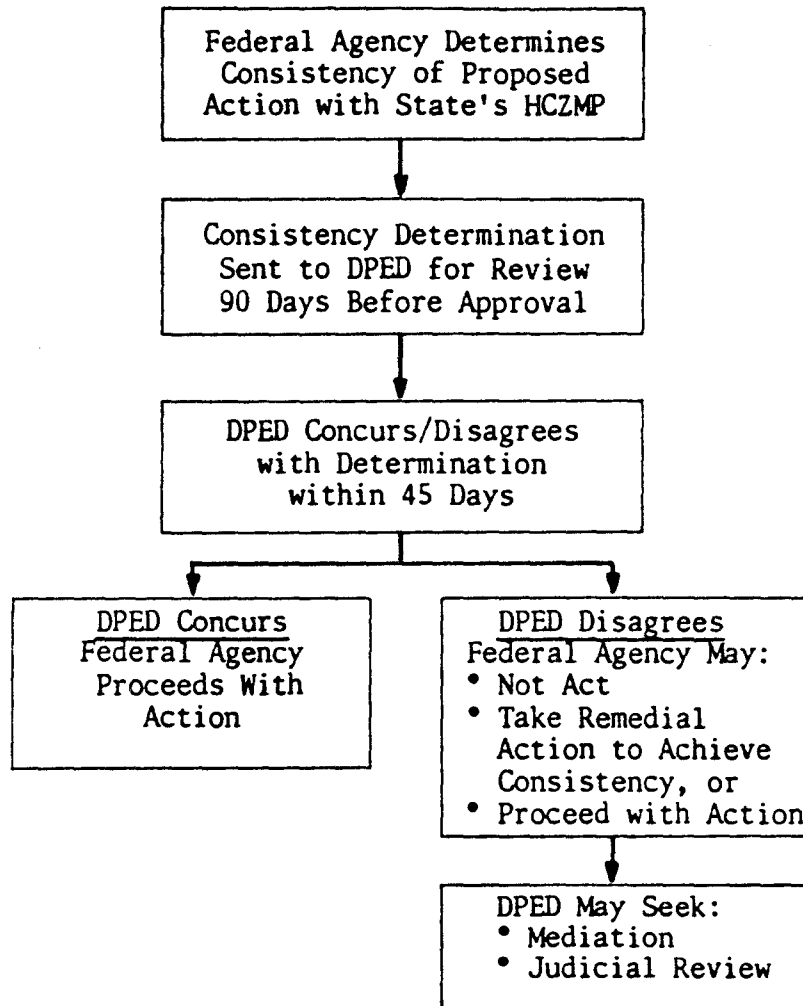
For telephone inquiries, call the CZM office at (808) 548-8467.

4. AWAIT DPED RESPONSE

Upon receipt of DPED response and CZM consistency clearance, the proposed activity may be implemented.

SECTION I
FEDERALLY CONDUCTED AND SUPPORTED ACTIVITIES

General Process



I. FEDERALLY CONDUCTED AND SUPPORTED ACTIVITIES

STEP 1 Federal agency determines if the proposed activity will affect the coastal zone

Any Federal agency proposing to conduct or support an activity which will directly affect Hawaii's coastal zone is required to do so in a manner consistent to the maximum extent practicable with the Hawaii Coastal Zone Management Program (HCZMP). (Subsection 307(c)(1), National CZM Act.)

A Federal agency activity is any function performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities. Since this definition encompasses an extremely broad range of Federal actions, early consultation with the DPED is recommended to resolve questions about whether the Federal consistency review process applies to a specific type of activity. The following are identified in the Federal CZM law and regulations.

- o Any activity directly affecting the coastal zone which is to be conducted or supported by a Federal agency.
- o Any Federal development project in the coastal zone.
- o Any Federally conducted or supported activity or development project which is to occur on Federal lands excluded from the coastal zone which directly affect the coastal zone.

The responsibility to determine whether a particular activity directly affects the coastal zone rests with the Federal agency. If a Federal agency decides after its initial assessment of coastal zone effects that a consistency determination is not required, it must notify the DPED before issuing its approval of the activity and briefly explain the reasons for its negative determination. (15 CFR Section 930.35).

Activities on Federally controlled lands excluded from the coastal zone are also contingent upon DPED review and concurrence if the Federal agency determines they will have a direct effect on the coastal zone. (15 CFR Section 930.33) If these activities do not have a direct effect, the Federal agency may submit a negative determination to inform the State of the proposed activity to provide an opportunity for State review of borderline cases. (15 CFR Section 930.35).

STEP 2 Submission Requirements

Notice must be provided to the Department of Planning and Economic Development, CZM Program, at least 90 days before final Federal agency approval of the activity unless both the Federal agency and the DPED agree to an alternative notification schedule.

The consistency submission must include:

1. A formal statement of determination as follows:

"The proposed activity is consistent with and will be conducted in a manner which is consistent to the maximum extent practicable with the Hawaii Coastal Zone Management Program."

2. A detailed description of the proposed activity including parcel identification numbers by Tax Map Key.
3. An assessment of the proposed activity's impacts with respect to Hawaii's CZM objectives, policies, and network of laws and regulations. Use of the CZM Assessment Form in this guide is recommended.
4. Comprehensive information to support the Federal agency's determination of consistency.

Federal agencies may also submit a negative determination or general consistency statements. The time frame and types of information noted above are generally applicable to these options. Refer to the Federal Consistency Regulations, Subpart C, for guidance.

STEP 3 DPED determines whether the submission is complete

DPED determines whether the submitted information is complete. If not, additional information will be requested by the DPED within 14 days of receipt of the submission. Otherwise, the submission may be assumed complete.

STEP 4 DPED conducts review

State and County agencies may be asked by the DPED to review the determination and may participate in conferences with the Federal agency. This would help to clarify information, identify and resolve potential issues related to the proposed activity, or assess possible alternatives so that consistency to the maximum extent practicable with the HCZMP may be achieved. Consultation with other agencies generally requires 21 days to complete. Public comments may also be requested during this consultation period.

The DPED considers the proposed activity's effects on coastal zone resources and the State's CZM network of laws which regulate their uses. Conflicts must be minimized to satisfy the Federal agency's obligation to assure consistency "to the maximum extent practicable."

STEP 5 DPED action

The DPED will notify the Federal agency of three alternative findings within 45 days of receipt unless an extension is requested. The State may agree with the Federal agency's consistency determination, agree to the determination with conditions, or disagree with it. If there is a disagreement, DPED will prescribe to the Federal agency how the activity may become consistent if it is possible. The Secretary of Commerce may mediate serious disputes when a disagreement remains unresolved.

Should the DPED condition its agreement with the determination, the Federal agency must acknowledge in writing its acceptance of the conditions before the 90-day notification and review period ends.

FREQUENTLY ASKED QUESTIONS

When does a Federal activity directly affect Hawaii's coastal zone?

The phrase "directly affecting" remains undefined in law. Neither the National CZM Act nor the Federal Consistency Regulations define the term. Rather, proposed activities are reviewed on a case-by-case basis for effects on coastal zone resources. The phrase "direct effect" is generally interpreted as being an immediate or long-term impact on the resources managed in accordance with Hawaii's CZM objectives and policies.

When do activities on excluded Federal lands "directly affect" Hawaii's coastal zone?

Federal lands are enclaves within the coastal zone and are excluded from it by definition in the National CZM Act. A consistency determination must be submitted for State CZM review when it is determined that activities occurring on Federal lands will impact CZM resources in the non-excluded area. This is commonly referred to as having a "spillover" effect. For example, a housing project on a military installation which will use County water sources has a "spillover" effect relative to CZM policy guidance referencing planning and management of Hawaii's water resources.

What other types of Federal activities directly affect the coastal zone?

A Federal activity is any function performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities. Agency decisions to regulate fisheries resources, to conduct military exercises on State lands, to acquire land for a wildlife refuge, or to construct harbor improvements are examples of activities that must be reviewed by the DPED before implementation. By definition, Federal development projects in the coastal zone directly affect the coastal zone.

How does the Federal agency notify the DPED of its consistency determination?

The Federal agency may choose to notify the DPED in any of several ways as long as the required CZM information is provided. The determination statement, detailed description of the proposed activity, an assessment of its relationship to the CZM policies, and supporting information must be included. If the State Clearinghouse review process is used, this information should be included in the Clearinghouse application.

Will the Clearinghouse review satisfy CZM consistency requirements?

It will only if notice is given at least 90 days before final Federal agency approval and if the required CZM information is included for review.

Will the Federal Environmental Impact Statement process satisfy CZM consistency requirements?

Yes, if the Federal consistency notification and information requirements are met. An analysis of the proposed activity's consistency with the CZM objectives and policies and the consistency statement may be included in the Environmental Impact Statement. The DPED can also conduct its consistency review simultaneously. Should CZM-related issues remain unresolved at the EIS phase, the DPED will notify the Federal agency and await additional information prior to finalizing the consistency review.

How will the activity be judged consistent?

The CZM objectives and policies are the basis for coastal management in Hawaii. The thrust of the policy statements is toward land and water uses in the coastal zone and outside the coastal zone when there are spillover effects. In reviewing a consistency submission, the DPED will consider a proposed activity's effects with respect to conformance with the policy statements. Both positive and negative effects on the resources should be described in the Federal agency's CZM assessment. If adverse effects are anticipated, appropriate mitigation should be included. The CZM Assessment Form is useful for identifying impacts.

What does "consistent to the maximum extent practicable" mean?

The term "consistent to the maximum extent practicable" describes the requirement for Federal activities to be fully consistent with the State's CZM Program unless compliance is prohibited based on the requirements of existing law applicable to the Federal agency's operations. If a Federal agency claims that compliance with the management program is prohibited, it must clearly describe to the DPED the statutory provisions, legislative history, or other legal authority which limits the Federal agency's discretion to comply with the provisions of the Hawaii CZM Program.

Are State and local permits required?

No. Proposed Federal activities, however, must conform with the CZM network of standards and criteria for managing resources even though no formal State or County permit application is required. This is based on the provision that the activity must be "consistent to the maximum extent practicable" with the HCZMP. The DPED consults with State and local agencies which administer network laws to determine if the activity conforms with the program.

Obtaining the relevant State and local permits are recommended, however. Evidence of their receipt would substantially reduce the time necessary to conduct the CZM consistency review by DPED.

How are the public's concerns considered?

Federal agencies frequently consult with public organizations and individuals through their planning and environmental assessment processes. In reviewing Federal consistency submissions, the DPED looks for Federal agency

efforts to consult with the public prior to preparing the consistency determination. Occasionally, the DPED has requested the Federal agency to undertake additional public review as part of the consistency review process. In addition, the DPED may provide public notice of its consistency review to gather additional information on the proposed project's impacts on the coastal zone.

Are Federal applicants for Federal permits or Federal funding agencies required to submit a CZM consistency determination?

Yes. Federal agencies applying for a Federal license or permit listed in Section II should submit a consistency determination on the proposed activity at least 90 days before applying for the permit. Similarly, Federal agencies proposing to grant financial assistance under the programs listed in Section IV to organizations or persons other than State or local agencies should submit a consistency determination at least 90 days prior to making a final decision on the grant application. These activities, however, are reviewed in accordance with Section I requirements.

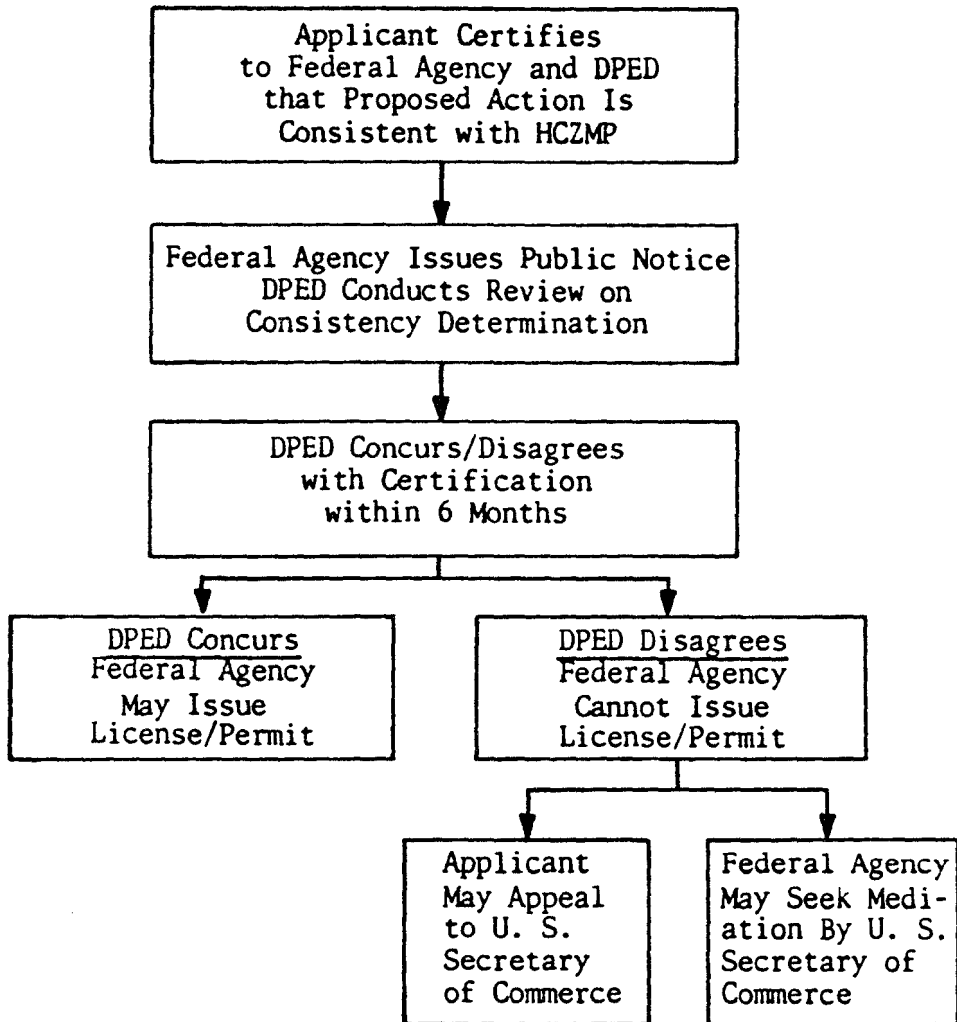
What happens if the DPED does not respond to a submission by the 45th day of the review period?

The Federal agency may presume that the DPED agrees with the consistency determination if a response is not provided within 45 days of DPED's receipt of a complete submission. DPED may request an extension of 15 days by notifying the Federal agency in writing. Under the Federal Consistency Regulations, the Federal agency automatically grants the extension. Additional review time may be allowed upon State and Federal agency agreement.

SECTION II

ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT

General Process



II. ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT

STEP 1 Applicant determines whether the proposed activity requires a Federal license or permit covered by the CZM consistency review process

The list of Federal permits and licenses for activities which are likely to affect land or water uses in the coastal zone have been included in the approved HCZMP. If the proposed activity requires any of the permits and/or licenses listed below, the Federal agency will inform the applicant that the permit or license cannot be issued until the DPED has concurred with a CZM consistency certification. (Subsection 307(c)(3)(A), National CZM Act).

Department of Defense - U. S. Army Corps of Engineers:

Permits and licenses required under Sections 9, 10, and 11 of the Rivers and Harbors Act of 1899.

Permits and licenses required under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972.

Permits and licenses required under Section 404 of the Federal Water Pollution Control Act of 1972 and amendments.

Environmental Protection Agency:

Permits and licenses under Sections 402 and 405 of the Federal Water Pollution Control Act of 1972 and amendments.

Permits and applications under the Clean Air Act of 1970 as amended.

Department of Transportation - U. S. Coast Guard:

Permits for construction of bridges under 33 USC 401, 491-507 and 525-534.

Permits for deepwater ports under the Deepwater Port Act of 1974 (P.L. 93-627).

Department of Transportation - Federal Aviation Administration:

Permits for construction and operation of airports.

Department of Agriculture:

Permits for water plants, dams, canals, etc., under 16 USC 497.

Department of Commerce - Office of Ocean Management and National Marine Fisheries Service:

Permits within Marine Sanctuaries under 33 USC 1401-1444.

Permits for taking or importing marine mammals under 16 USC 1374.

Permits, licenses, and approvals issued pursuant to the Fishery Conservation and Management Act of 1976.

Department of Interior - Bureau of Land Management - U. S. Geological Survey:

Permits and licenses required for drilling and mining on Outer Continental Shelf Lands (BLM).

Permits and approvals of exploration and operating plans pertaining to the extraction of leasable minerals (USGS).

Permits, licenses, and approvals relating to viable coral communities pursuant to 43 CFR 6224.

Department of Energy - Federal Energy Regulatory Commission:

Licenses required for non-Federal hydroelectric projects and associated transmission lines under Section 4(e) of the Federal Power Act (16 USC 797(e)).

Certificates required for the construction and operation of natural gas pipeline facilities, defined to include both interstate pipeline and terminal facilities under Section 7(c) of the Natural Gas Act (15 USC 717(c)).

Permission and approval required for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 USC 717 f(b)).

Department of Energy - Economic Regulatory Administration:

Opinion and order for permission for delivery of imported liquified natural gas.

Nuclear Regulatory Commission:

Permits and licenses for construction and operation of nuclear facilities.

Federal Actions Outside the Coastal Zone but Requiring a Federal Consistency Determination:

1. Federally permitted actions in forest reserves which disturb land and water resources.
2. Federally permitted actions in the archipelagic waters of the Hawaiian Islands which involve the placement of any material in or on such areas, or which involve the taking or removal of any material from such areas.

Other forms of Federal permission such as leases, permit or license renewals, or major amendments to permit or licenses, are included within this category. (15 Code of Federal Regulations, Section 930.51). If such activities will affect land or water uses in the coastal zone, they are subject to the consistency review process.

STEP 2 Submission requirements

The applicant submits to the Federal permit issuing agency as part of the application and to the Department of Planning and Economic Development, CZM Program, the following statement:

"The proposed activity complies with Hawaii's Coastal Zone Management Program and will be conducted in a manner consistent with such program." This statement is pre-printed on the CZM supplemental information form found in this guide.

In addition to the request to DPED for concurrence with the statement, the following must also be included in the submission to DPED:

1. A copy of the Federal permit application.
2. An assessment of the proposed activity's impacts with respect to Hawaii's CZM objectives, policies, and network of laws and regulations. The CZM Assessment Form found in this guide should be used for the assessment.
3. Comprehensive information to support the consistency statement, including parcel identification by Tax Map Key.

Supporting information may also be provided in an Environmental Impact Assessment or an Environmental Impact Statement. Additional detailed information which describe the proposed activity, its associated facilities, and their coastal zone effects should be included.

The consistency submission to the DPED should coincide with the application for the Federal permit or license to allow concurrent processing. A copy of the submission should also be sent to the County in which the proposed project is located. A copy should be sent to the Planning Department for the Counties of Kauai, Maui, and Hawaii or to the City and County of Honolulu's Department of Land Utilization, as appropriate. This will facilitate the public's opportunity to review the CZM consistency submission as provided in the Federal regulations. All comments, however, should be written and filed with the DPED.

STEP 3 DPED determines whether the submission is complete

DPED determines whether the information submitted is complete. If not, additional information will be requested by the DPED within 14 days of receipt. The review period begins when the submission is deemed complete. Should the Federal agency request additional information, that information should also be provided to the DPED.

STEP 4 Public notice and DPED review

Notice on the availability of the consistency determination for public review will be given in accordance with the Federal consistency regulations. Whenever possible, the DPED will issue joint public notice with the Federal permit or license issuing agency to minimize duplication and to avoid unnecessary delays.

State and County agencies may be asked by the DPED to review the submission and may participate in conferences with the applicant and Federal agency. These conferences help to clarify information and identify possible alternatives to assure consistency with the HCZMP. Consultation with other agencies generally takes 45 days to complete.

In conducting its review, the DPED considers the proposed activity's effects on coastal zone resources and the State's CZM network of laws which regulate their uses. Adverse impacts need to be minimized to assure that the Federal agency avoids authorizing an activity which conflicts with CZM policies.

STEP 5 DPED action

The DPED responds by letter to the applicant of its agreement, agreement with conditions, or objection to the consistency submission statement within 90 days of receipt. If there is an objection, the DPED will prescribe to the applicant how the activity may become consistent if it is possible. The applicant may appeal a DPED objection to the U. S. Secretary of Commerce. The grounds for appeal, however, are limited. The Secretary of Commerce may also be asked to mediate disputes.

If the DPED conditions its agreement with the determination, the applicant must acknowledge in writing its acceptance of the conditions within 30 days.

FREQUENTLY ASKED QUESTIONS

How will the activity be judged consistent?

The CZM objectives and policies are the basis for coastal management in Hawaii. The thrust of the policy statements is toward land and water uses in the coastal zone and those outside the coastal zone which affect those resources. In reviewing the consistency submission, the DPED considers the proposed activity's effects relative to these policy statements. Both positive and negative effects on the resources should be described in the CZM assessment. If there are any adverse effects anticipated, mitigation measures must be included. The CZM Assessment Form is useful for identifying impacts.

Is a CZM consistency review required for all Corps of Engineers permitted activities?

No. The U. S. Army Corps of Engineers has taken steps to reduce processing time of permit applications by issuing general permits both nationwide and regionally and by establishing criteria for issuing minor

permits for non-significant activities. The DPED has already generally concurred with a number of these permits and minor activities.

General Permits - General permits are issued for similar activities which cause only minimal adverse effects on the environment. For example, the Corps has authorized minor dredging of less than 10 cubic yards (such as shoal removal) under a nationwide permit. While the Corps should be notified when and where the dredging will occur, an individual permit application is not required, nor a CZM consistency certification since the DPED has already determined that the class of activity to be permitted is consistent under the conditions of the nationwide permit. Regional general permits, however, usually require an application to the Corps but do not require another CZM consistency review.

Minor Activities - The Honolulu District Engineer may also determine that individual activities are minor and may be authorized by a letter of permission provided that they are minor in scope, would not have significant environmental impacts, and should not encounter appreciable public opposition. These activities require the CZM consistency certification statement as part of the application and must receive DPED clearance before being issued. The CZM assessment and public notice requirements, however, are waived since the DPED has already determined that the Corps' criteria for determining minor activities will authorize general types of activities which are consistent with the Hawaii CZM Program.

It should be noted that the Corps of Engineers is solely responsible for making the initial determination as to how the activity will be processed for authorization.

How are the public's concerns considered?

Public notice of the consistency review is required and is generally provided in a Federal agency public notice. Responses are usually requested within 14-30 days. The DPED weighs all written public comments pertaining to the CZM policies in its review. Public hearings conducted by the Federal authorizing agency are another source of public input to the CZM consistency review process.

To facilitate the public's opportunity to review the consistency submission, the applicants should send a copy of the submission to the County where the proposed project is located. The agencies and their addresses are:

Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

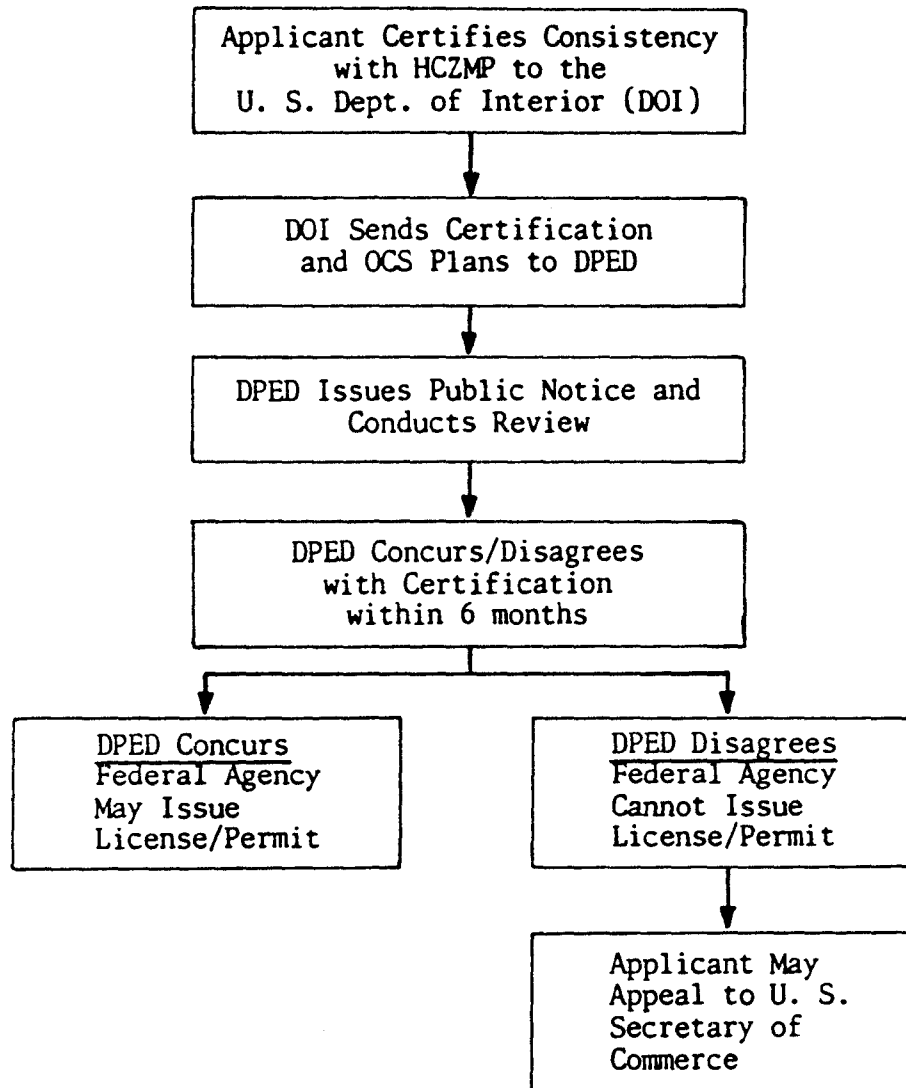
Planning Department
County of Maui
200 S. High Street
Wailuku, Maui, Hawaii 96793

Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

Department of Land Utilization
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

SECTION III
OUTER CONTINENTAL SHELF (OCS)
EXPLORATION, DEVELOPMENT AND PRODUCTION ACTIVITIES
REQUIRING FEDERAL LICENSES OR PERMITS

General Process



III. OUTER CONTINENTAL SHELF (OCS)
EXPLORATION, DEVELOPMENT AND PRODUCTION ACTIVITIES

STEP 1 Applicant determines if the proposed activity will affect the coastal zone

Activities which are described in detail in an Outer Continental Shelf (OCS) plan submitted to the Secretary of the Interior are subject to consistency review if they affect the coastal zone. In making this determination, the fact that the ocean waters from the shore to the limit of the State's jurisdiction are an integral part of the coastal zone must be considered.

A license or permit for such activities may not be granted by a Federal agency unless consistency with the HCZMP is certified. (Subsection 307(c)(3)(B), National CZM Act).

Findings regarding the extent to which a proposed activity affects the coastal zone will be determined by the person submitting the OCS plan to the Secretary of the Interior (15 Code of Federal Regulations, Section 930.77).

STEP 2 Submission requirements

The proponent of the Outer Continental Shelf development plan must include within the plan the following statement:

"The proposed activities described in detail in this plan comply with Hawaii's approved coastal management program and will be conducted in a manner consistent with such program."

The following should also be submitted with the request for concurrence to the DPED:

1. A copy of the OCS plan submitted to the Secretary of the Interior.
2. An assessment of the proposed activity's impacts with respect to Hawaii's CZM objectives, policies, and network of laws and regulations. The Assessment Form in this guide should be used for this purpose.
3. Comprehensive data and information to support the consistency statement.

Additional detailed information which describe the proposed activity, its associated facilities (e.g., onshore support structures, offshore pipelines), and their coastal zone effects (e.g., air, water, waste discharge, erosion, wetlands, beach access impacts) should be included in the proponent's findings of consistency.

STEP 3 DPED determines whether the submission is complete

DPED determines whether the information submitted is complete. If not, additional information will be requested by the DPED within 14 days of receipt. The review period begins when the submission is deemed complete. If the Federal administering agency requests additional information from the applicant, the supplemental information should also be provided to the DPED.

STEP 4 Public notice and DPED review

Notice of the availability of the consistency submission for public review will be provided in accordance with the Federal consistency regulations. Whenever possible, the DPED will issue joint public notice with the Federal permit or license issuing agency to minimize duplication and avoid unnecessary delays.

State and County agencies may be asked by the DPED to review the submission and may participate in conferences with the applicant and Federal agency. These conferences would help clarify information, resolve potential issues related to the proposed activity, or identify possible alternatives to assure consistency with the HCZMP. Consultation with other agencies generally takes 45 days to complete.

In conducting its review, the DPED considers the proposed activity's effects on coastal zone resources and the State's CZM network of laws which regulate their uses. Adverse impacts need to be minimized to assure that the Federal agency avoids authorizing activities which conflict with CZM policies.

STEP 5 DPED action

The DPED responds by letter to the applicant of its agreement, agreement with conditions, or objection to the consistency submission statement within 90 days of receipt. If there is an objection, the DPED will prescribe how the activity may become consistent if possible. The applicant may appeal to the U. S. Secretary of Commerce. The grounds for appeal, however, are limited. The Secretary of Commerce may also be asked to mediate disputes.

If the DPED conditions its agreement with the determination, the applicant must acknowledge in writing its acceptance of the conditions within 30 days.

FREQUENTLY ASKED QUESTIONS

How will the activity be judged consistent?

The CZM objectives and policies are the basis for coastal management in Hawaii. The thrust of the policy statements is toward land and water uses in the coastal zone and those outside the coastal zone which affect those resources. In reviewing a consistency submission, the DPED considers a proposed activity's effects relative to these policy statements. Both positive and negative effects on the resources should be described in the

Federal agency's CZM assessment. Should adverse effects be anticipated, the consistency submission should describe how they will be mitigated. The CZM Assessment is useful for identifying impacts.

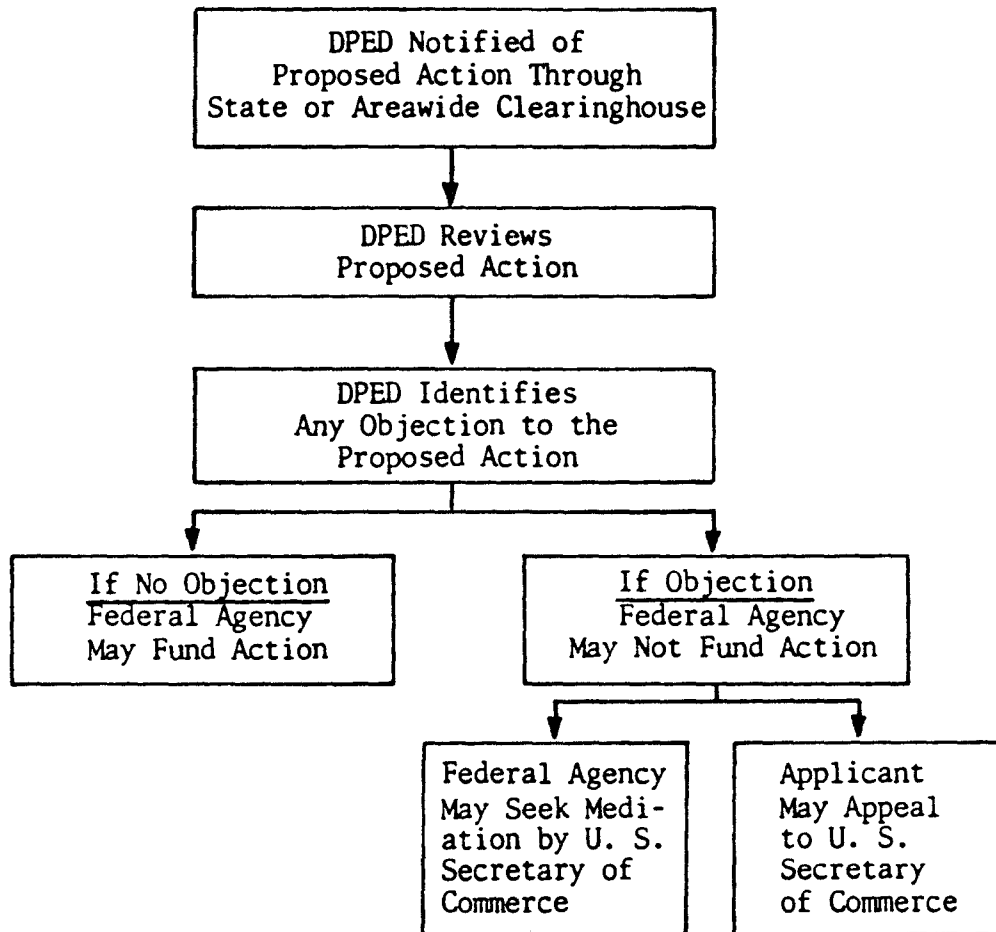
What type of activities may require CZM consistency review?

In Hawaii, mineral mining and processing activities are the most likely ones.

SECTION IV

FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

General Process



IV. FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

STEP 1 Applicant determines whether the proposed activity will be funded under Federal program covered by the CZM consistency review process

A list of Federal assistance programs for activities likely to affect land or water uses in the coastal zone is provided here. If a State or local agency is applying for funds provided by any of these programs, the notice of application must be reviewed by the DPED. If there are any inconsistencies with the HCZMP and the DPED formally objects to the application, the Federal agency is prohibited from granting funds for the proposed project. (Section 307(d), National CZM Act).

Federal Grants, Loans and Guarantees in the Coastal Zone

1. Grants for Planning and Management

AGRICULTURE

Rural development planning grants

COMMERCE

EDA planning assistance
NOAA CEIP grants

DEFENSE

Community economic adjustment

HOUSING AND URBAN DEVELOPMENT

Comprehensive planning assistance
State disaster plans and programs

INTERIOR

Outdoor recreation State planning
Historic preservation

TRANSPORTATION

Airport planning grants
Highway research, planning and construction
Urban mass transportation studies grants

WATER RESOURCES COUNCIL

Water resources planning

ENVIRONMENTAL PROTECTION AGENCY

- Air pollution control program grants (planning)
- Air pollution survey and demonstration
- Solid waste planning grants
- Areawide waste treatment planning and water quality implementation plans (Sec. 208)
- Statewide continuing planning process for water pollution control

2. Grants for State, Local and Private Development

AGRICULTURE

- Irrigation, drainage, and other soil and water and conservation loans
- Resource conservation and development loans
- Water and waste disposal systems for rural communities
- Watershed protection and flood prevention loans
- Resource conservation and development
- Watershed protection and flood prevention (Exception: small projects costing under \$7,500 for erosion and sediment control and land stabilization and for rehabilitation and consolidation of existing irrigation systems.)
- Rural Development Act of 1972--loans and grants for essential rural community facilities (Sec. 104), rural industrial assistance (Sec. 201 e, f, g), water storage facilities (Sec. 301)

COMMERCE

- EDA grants and loans for public works and development facilities
- EDA public works and impact projects
- NOAA commercial fisheries research and development
- NOAA fishery cooperative service
- NOAA grants to purchase and operate estuarine sanctuaries under Coastal Zone Management Act of 1972
- Maritime development and promotion of ports and intermodal transport systems
- Maritime capital construction fund

DEFENSE

- Corps beach erosion control projects
- Corps flood control works and Federally-authorized coastal protection works, rehabilitation
- Corps protection of essential highways, highway bridge approaches and public works
- Corps flood control projects
- Corps navigation projects
- Corps shagging and clearing for flood control
- Corps shagging and clearing for navigation

HOUSING AND URBAN DEVELOPMENT

- New communities--loan guarantees
- Surplus land for community development
- Urban renewal projects
- Public housing--modernization of projects
- Disaster assistance

INTERIOR

- Outdoor recreation--acquisition and development
- Irrigation distribution system loans
- Small reclamation projects
- Anadromous fish conservation
- Conservation law enforcement training assistance
- Farm fish pond management
- Fishery research-information
- Fish restoration
- Sport fish management
- Wildlife enhancement
- Wildlife research information
- Wildlife restoration
- Historic preservation

TRANSPORTATION

- Airport development aid program
- Forest highways
- Highway beautification-landscaping and scenic enhancement
- Public lands highway
- Urban mass transportation capital improvements grants
- Urban mass transportation capital improvement loans

TREASURY

- General revenue sharing

ENVIRONMENTAL PROTECTION AGENCY

- Air pollution control program grants
- Construction grants for wastewater treatment works
- Water pollution control demonstrations
- Solid waste research grants
- Environmental protection-consolidated program grants
- Programs under Federal Water Pollution Control Act
- Amendments of 1972

3. Operational, Service and Research Grants

AGRICULTURE

- SCS soil and water conservation
- SCS soil surveys

COMMERCE

- EPA technical assistance
- NOAA Sea Grant programs
- NOAA geodetic control surveys
- Nautical charts and related data (NOAA)

HOUSING AND URBAN DEVELOPMENT

- Urban systems engineering demonstration grants
- Governmental management--technical assistance and information services

INTERIOR

- USGS minerals discovery loan program
- USGS additional water resources
- Additional water resources research
- Water resources research-assistance to States for institutes
- Water resources research-matching grants to State institutes
- Water resources scientific information center

NATIONAL SCIENCE FOUNDATION

- Intergovernmental science and research utilization
- Research applied to national needs (RANN) program

Federal Grants, Loans and Guarantees Outside the Coastal Zone Subject to Federal Consistency Determination

1. Federal financial assistance programs on lands outside the coastal zone which have a potential for disturbing land and water resources in the coastal zone (spillover effect).
2. Federal financial assistance programs for actions in the archipelagic waters of the Hawaiian Islands which disturb land and water resources.

STEP 2 Applicant submits materials to the State or Areawide Clearinghouse

The State or local agency must describe the relationship of the proposed activity with the HCZMP, including the extent to which it will affect the coastal zone. (Section 307(d), National CZM Act). The CZM Assessment in this guide should be used as an addendum to the Clearinghouse submission to clearly identify coastal zone effects of the proposed activity. At a minimum, sufficient information must be provided for the DPED to determine the extent to which the activity will affect the resources managed under the CZM objectives and policies.

STEP 3 DPED conducts review

The DPED will review the proposed project application for consistency with the HCZMP. Conferences may be arranged with the applicant to clarify information submitted, resolve potential issues related to the

proposed project, or discuss possible alternatives to assure consistency with the HCZMP.

STEP 4 DPED action

The DPED is not required to formally concur with each funding application under this consistency review category. It will provide its comments through the Clearinghouse.

If inconsistencies or conflicts remain unresolved, the DPED will notify the Clearinghouse of its formal objection to the application. The applicant, Federal agency, and Office of Ocean and Coastal Resource Management will be notified by the Clearinghouse.

The National CZM Act and the Federal Consistency Regulations establish formal appeal and mediation procedures for serious disagreements over an objection. The grounds for appeal of a DPED objection are limited.

FREQUENTLY ASKED QUESTIONS

How will the activity be determined to affect the coastal zone?

The CZM objectives and policies are the basis for coastal management in Hawaii. The thrust of the policy statements is toward land and water uses in the coastal zone and those outside the coastal zone which affect those resources. In reviewing a proposed activity, the DPED considers its effects with respect to these policy statements. Both positive and negative impacts on the resources need to be described in the State or local agency's CZM assessment. If adverse effects are anticipated, mitigation measures should be described.

Will completing the Clearinghouse forms be sufficient for CZM review information requirements?

No. The forms themselves are used only for information needed by the State Intergovernmental Review Process to meet the objectives of the State's process under Presidential Executive Order 12372. Supplemental information on the proposed projects' impacts on coastal zone resources to the extent that they may be identified must also be included. A completed CZM Assessment Form will provide the necessary information.

Instructions for Preparing an Assessment

1. Review the HCZMP objectives and policies and identify those relevant to the proposed activity

The Hawaii Coastal Zone Management Program (HCZMP) objectives and policies of Section 205A-2, Hawaii Revised Statutes, are listed on the assessment form.

Questions are presented in each resource group to help identify the relationship of a proposed activity to the objectives and policies. They are intended only as guides to understanding the objectives and policies. There may be other relevant concerns not listed in the form. If a particular resource group does not appear to be relevant, the applicant may indicate "not applicable" in the discussion section.

2. Prepare discussion

The proposed activity's effects on Hawaii's coastal zone should be discussed in terms of how they either further or conflict with the objectives and policies. It is most important to discuss all of the applicable objectives and policies.

Sections of an Environmental Impact Statement, Environmental Impact Assessment, or other supplementary material which provide supporting data and information may be cited by reference and attached to the discussion. For example, if an Environmental Assessment describes impacts on scenic resources, the CZM Assessment Form would indicate the appropriate pages under the discussion section.

Supporting Network of Policies and Mandates

The HCZMP is a networked program. That is, a network of statutes, ordinances, rules, and regulations are incorporated into the program as the primary means of carrying out the CZM objectives and policies. They are used to administer and enforce land and water use regulations in conformance with the CZM objectives and policies; to control uses, areas, and developments subject to the management program; and to resolve conflicts among competing uses. An assessment of a proposed activity's consistency with the HCZMP should include a discussion of the relevant network authorities cited in the approved Hawaii Coastal Zone Management Program and Final Environmental Impact Statement.

First, if any land and water use permission which directly implements the CZM objectives and policies is required for a proposed activity, information regarding the status of the application should be provided. Of particular importance are the following:

1. Special Management Area use permit;
2. Shoreline Setback Variance;

3. Conservation District Use permit;
4. State Land Use District Boundary Amendments;
5. Shorewaters Construction permit; and
6. State Department of Health permits and approvals, including, but not limited to, National Pollutant Discharge Elimination System permits and zone of mixing approvals.

Secondly, if a proposed activity affects coastal resources or areas for which an agency administers a State policy incorporated in the network, efforts to consult with the responsible agency should be described in the assessment.

For example, if a site listed on the State Register of Historic Places will be affected, the discussion under Historic Resources should include information on the consultation with the State Historic Preservation Officer. Similarly, if a proposed activity is contingent upon the State environmental review process under Chapter 343, the status or results of that process should be discussed under the Managing Development section. If fish or marine mammals within the State's waters will be affected, evidence of coordination with the State's Division of Aquatic Resources should be provided in the Coastal Ecosystems section.

Since the Federal consistency review process promotes continued coordination of State and Federal interests and allows early consultation on activities, this information will be helpful in minimizing and resolving conflicts.

3. Sign and submit completed forms with other required information

The CZM Assessment Form and Supplemental Information Form should be reproduced and submitted with the other required information to the DPED. The consistency statement should be signed if the activity involves a Federal permit or Federal agency activity.

HAWAII CZM PROGRAM
ASSESSMENT FORM

RECREATIONAL RESOURCES

Objective: Provide coastal recreational opportunities accessible to the public.

Policies

- 1) Improve coordination and funding of coastal recreation planning and management.
- 2) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
 - a) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
 - b) Requiring replacement of coastal resources having significant recreational value, including but not limited to surfing sites and sandy beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;
 - c) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
 - d) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;
 - e) Encouraging expanded public recreational use of County, State, and Federally owned or controlled shoreline lands and waters having recreational value;
 - f) Adopting water quality standards and regulating point and non-point sources of pollution to protect and where feasible, restore the recreational value of coastal waters;
 - g) Developing new shoreline recreational opportunities, where appropriate, such as artificial reefs for surfing and fishing; and
 - h) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, County planning commissions; and crediting such dedication against the requirements of section 46-6.

Check either "Yes" or "No" for each of the following questions.

	<u>Yes</u>	<u>No</u>
1. Will the proposed action involve or be near a dedicated public right-of-way?	—	—
2. Does the project site abut the shoreline?	—	—
3. Is the project site near a State or County park?	—	—
4. Is the project site near a perennial stream?	—	—
5. Will the proposed action occur in or affect a surf site?	—	—
6. Will the proposed action occur in or affect a popular fishing area?	—	—
7. Will the proposed action occur in or affect a recreational or boating area?	—	—
8. Is the project site near a sandy beach?	—	—
9. Are there swimming or other recreational uses in the area?	—	—

Discussion

HISTORIC RESOURCES

Objective: Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

Policies

- 1) Identify and analyze significant archaeological resources;
- 2) Maximize information retention through preservation of remains and artifacts or salvage operations; and
- 3) Support State goals for protection, restoration, interpretation, and display of historic resources.

Check either "Yes" or "No" for each of the following questions.

	<u>Yes</u>	<u>No</u>
1. Is the project site within a historic/cultural district?	___	___
2. Is the project site listed on or nominated to the Hawaii or National register of historic places?	___	___
3. Does the project site include undeveloped land which has not been surveyed by an archaeologist?	___	___
4. Has a site survey revealed any information on historic or archaeological resources?	___	___
5. Is the project site within or near a Hawaiian fishpond or historic settlement area?	___	___

Discussion

SCENIC AND OPEN SPACE RESOURCES

Objective: Protect, preserve and, where desirable, restore or improve the quality of coastal scenic and open space resources.

Policies

- 1) Identify valued scenic resources in the coastal zone management area;
- 2) Insure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;
- 3) Preserve, maintain and, where desirable, improve and restore shoreline open space and scenic resources; and
- 4) Encourage those developments which are not coastal dependent to locate in inland areas.

Check either "Yes" or "No" for each of the following questions.

	<u>Yes</u>	<u>No</u>
1. Does the project site abut a scenic landmark?	—	—
2. Does the proposed action involve the construction of a multi-story structure or structures?	—	—
3. Is the project site adjacent to undeveloped parcels?	—	—
4. Does the proposed action involve the construction of structures visible between the nearest coastal roadway and the shoreline?	—	—
5. Will the proposed action involve construction in or on waters seaward of the shoreline? On or near a beach?	—	—

Discussion

COASTAL ECOSYSTEMS

Objective: Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.

Policies

- 1) Improve the technical basis for natural resource management;
- 2) Preserve valuable coastal ecosystems of significant biological or economic importance;
- 3) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land water uses, recognizing competing water needs; and
- 4) Promote water quantity and quality planning and management practices which reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate State water quality standards.

Check either "Yes" or "No" for each of the following questions.

	<u>Yes</u>	<u>No</u>
1. Does the proposed action involve dredge or fill activities?	___	___
2. Is the project site within the Shoreline Setback Area (20 to 40 feet inland of the shoreline)?	___	___
3. Will the proposed action require some form of effluent discharge into a body of water?	___	___
4. Will the proposed action require earthwork beyond clearing and grubbing?	___	___
5. Will the proposed action include the construction of special waste treatment facilities, such as injection wells, discharge pipes, or cesspools?	___	___
6. Is an intermittent or perennial stream located on or near the project site?	___	___
7. Does the project site provide habitat for endangered species of plants, birds, or mammals?	___	___
8. Is any such habitat located nearby?	___	___
9. Is there a wetland on the project site?	___	___
10. Is the project site situated in or abutting a Natural Area Reserve?	___	___

11. Is the project site situated in or abutting a Marine
Life Conservation District?

12. Is the project site situated in or abutting an estuary?

Discussion

ECONOMIC USES

Objective: Provide public or private facilities and improvements important to the State's economy in suitable locations.

Policies

- 1) Concentrate in appropriate areas the location of coastal dependent development necessary to the State's economy;
- 2) Insure that coastal dependent development such as harbors and ports, visitor industry facilities, and energy generating facilities are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
- 3) Direct the location and expansion of coastal dependent developments to areas presently designated and used for such development and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:
 - a) Utilization of presently designated locations is not feasible;
 - b) Adverse environmental effects are minimized; and
 - c) Important to the State's economy.

Check either "Yes" or "No" for each of the following questions.

	<u>Yes</u>	<u>No</u>
1. Does the project involve a harbor or port?	—	—
2. Is the project site within a designated tourist destination area?	—	—
3. Does the project site include agricultural lands or lands designated for such use?	—	—
4. Does the proposed activity relate to commercial fishing or seafood production?	—	—
5. Does the proposed activity relate to energy production?	—	—
6. Does the proposed activity relate to seabed mining?	—	—

Discussion

COASTAL HAZARDS

Objective: Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, and subsidence.

Policies

- 1) Develop and communicate adequate information on storm wave, tsunami, flood erosion, and subsidence hazard;
- 2) Control development in areas subject to storm wave, tsunami, flood, erosion, and subsidence hazard;
- 3) Ensure that developments comply with requirements of the Federal Flood Insurance Program; and
- 4) Prevent coastal flooding from inland projects.

Check either "Yes" or "No" for each of the following questions.

	<u>Yes</u>	<u>No</u>
1. Is the project site on or abutting a sandy beach?	—	—
2. Is the project site within a potential tsunami inundation area as depicted on the National Flood Insurance Program flood hazard map?	—	—
3. Is the project site within a potential flood inundation area according to a flood hazard map?	—	—
4. Is the project site within a potential subsidence hazard area according to a subsidence hazard map?	—	—
5. Has the project site or nearby shoreline areas experienced shoreline erosion?	—	—

Discussion

MANAGING DEVELOPMENT

Objective: Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

Policies

- 1) Effectively utilize and implement existing law to the maximum extent possible in managing present and future coastal zone development;
- 2) Facilitate timely processing of application for development permits and resolve overlapping or conflicting permit requirements; and
- 3) Communicate the potential short- and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the general public to facilitate public participation in the planning and review process.

Check either "Yes" or "No" for each of the following questions.

	<u>Yes</u>	<u>No</u>
1. Will the proposed activity require more than two (2) permits or approvals?	—	—
2. Does the proposed activity conform with the State and County land use designations for the site?	—	—
3. Has or will the public be notified of the proposed activity?	—	—
4. Has a draft or final environmental impact statement or an environmental assessment been prepared?	—	—

Discussion

FEDERAL CONSISTENCY
SUPPLEMENTAL INFORMATION FORM

Project/Activity Title or Description: _____

Island _____ Tax Map Key No. _____ Est. Start Date: _____

APPLICANT OR AGENT

Name & Title _____

Agency/Organization _____ Telephone _____

Address _____ Zip _____

TYPE OF APPLICATION (check one only)

- ☐ I. Federal Activity
(statement "a")

"The proposed activity is consistent with and will be conducted in a manner consistent to the maximum extent practicable with the Hawaii Coastal Zone Management Program."

Signature _____ Date _____

- ☐ II. Permit or License
(statement "b")

"The proposed activity complies with Hawaii's Coastal Zone Management Program and will be conducted in a manner consistent with such a program."

Signature _____ Date _____

- ☐ III. OCS Plan/Permit
- ☐ IV. Grants & Assistance

APPENDIX

NATIONAL CZM ACT & FEDERAL REGULATIONS
GOVERNING FEDERAL CONSISTENCY WITH
APPROVED COASTAL MANAGEMENT PROGRAMS
CITATIONS

NATIONAL CZM ACT & FEDERAL REGULATIONS GOVERNING
FEDERAL CONSISTENCY WITH APPROVED
COASTAL MANAGEMENT PROGRAMS
CITATIONS

National CZM Act (16 U.S.C. 1451 et. seq.)

Section:

- | | |
|--------------|--|
| 307(c)(1) | Consistency of Federal activities. |
| 307(c)(2) | Consistency of Federal development projects. |
| 307(c)(3)(A) | Consistency of activities requiring a Federal license or permit. Appeal to Secretary of Commerce. |
| 307(c)(3)(B) | Consistency of Outer Continental Shelf (OCS) exploration, development, and production activities. Appeal to Secretary of Commerce. |
| 307(d) | Consistency of applications for Federal assistance submitted by State and local governments. Appeal to Secretary of Commerce. |
| 307(f) | Consideration of Federal Water Pollution Control Act, as amended, and the Federal Clean Air Act, as amended. |
| 307(h) | Secretarial mediation. |

15 Code of Federal Regulations, Part 930, "Federal Consistency with Approved Coastal Management Programs"

Section:

Subpart A - Objectives

- | | |
|-------|---------------------|
| 930.1 | Overall Objectives. |
|-------|---------------------|

Subpart B - General Definitions

- | | |
|--------|------------------------------------|
| 930.10 | Index to definitions. |
| 930.11 | Act. |
| 930.12 | Section. |
| 930.13 | Secretary. |
| 930.14 | Executive Office of the President. |
| 930.15 | OCZM. |
| 930.16 | Assistant Administrator. |
| 930.17 | Federal agency. |
| 930.18 | State agency. |
| 930.19 | Management program. |
| 930.20 | Coastal Zone. |
| 930.21 | Associated facilities. |

Subpart C - Consistency for Federal Activities

- | | |
|--------|---|
| 930.30 | Objectives. |
| 930.31 | Federal activity. |
| 930.32 | Consistent to the maximum extent practicable. |

- 930.33 Identifying Federal activities directly affecting the coastal zone.
- 930.34 Federal agency consistency determination.
- 930.35 Federal and State agency coordination.
- 930.36 Availability of mediation for negative determination disputes.
- 930.37 Consistency determinations for proposed activities.
- 930.38 Consistency determinations for activities initiated prior to management program approval.
- 930.39 Content of a consistency determination.
- 930.40 Multiple Federal agency participation.
- 930.41 State agency response.
- 930.42 State agency disagreement.
- 930.43 Availability of mediation for disputes concerning proposed activities.
- 930.44 Availability of mediation for previously reviewed activities.

Subpart D - Consistency for Activities Requiring a Federal License or Permit

- 930.50 Objectives.
- 930.51 Federal license or permit.
- 930.52 Applicant.
- 930.53 Management program license and permit listing.
- 930.54 Unlisted Federal license and permit activities.
- 930.55 Availability of mediation for license or permit disputes.
- 930.56 State agency guidance and assistance to applicants; information requirements.
- 930.57 Consistency certifications.
- 930.58 Necessary data and information.
- 930.59 Multiple permit review.
- 930.60 Commencement of State agency review.
- 930.61 Public notice.
- 930.62 Public hearings.
- 930.63 State agency concurrence with a consistency certification.
- 930.64 State agency objection to a consistency certification.
- 930.65 Federal permitting agency responsibility.
- 930.66 Availability of mediation for previously reviewed activities.

Subpart E - Consistency for Outer Continental Shelf (OCS) Exploration, Development, and Production Activities

- 930.70 Objectives.
- 930.71 Federal license or permit activity described in detail.
- 930.72 Person.
- 930.73 OCS plan.
- 930.74 OCS activities subject to State agency review.
- 930.75 State agency assistance to persons; information requirements.
- 930.76 Submission of an OCS plan and consistency certification.
- 930.77 Necessary data and information.
- 930.78 Commencement of State agency review; public notice.

- 930.79 State agency concurrence or objection.
- 930.80 Effect of State agency concurrence.
- 930.81 Federal permitting agency responsibility.
- 930.82 Multiple permit review.
- 930.83 Amended or new OCS plans.
- 930.84 Review of amended or new OCS plans; public notice.
- 930.85 Continuing State agency objections.
- 930.86 Failure to comply substantially with an OCS plan.

Subpart F - Consistency for Federal Assistance to State and Local Governments

- 930.90 Objectives.
- 930.91 Federal assistance.
- 930.92 Applicant agency.
- 930.93 Intergovernmental Review Process.
- 930.94 State Intergovernmental Review Process for Consistency
- 930.95 Guidance provided by the State agency.
- 930.96 Consistency review.
- 930.97 Federal assisting agency responsibility.
- 930.98 Federal assisted activities outside of the coastal zone or the described geographic area.
- 930.99 Availability of mediation for Federal assistance disputes.
- 930.100 Availability of mediation for previously reviewed activities.

Subpart G - Secretarial Mediation

- 930.110 Objectives.
- 930.111 Informal negotiations.
- 930.112 Request for mediation.
- 930.113 Public hearings.
- 930.114 Secretarial mediation efforts.
- 930.115 Termination of mediation.
- 930.116 Judicial review.

Subpart H - Secretarial Review Related to the Objectives or Purposes of the Act and National Security Interests

- 930.120 Objectives.
- 930.121 Consistent with the objectives or purposes of the Act.
- 930.122 Necessary in the interest of national security.
- 930.123 Appellant.
- 930.124 Informal discussions.
- 930.125 Appeals to the Secretary.
- 930.126 Federal and State agency responses to appeals.
- 930.127 Public notice; receipt of comments.
- 930.128 Dismissal of appeals.
- 930.129 Public hearings.
- 930.130 Secretarial review.
- 930.131 Federal agency responsibility.
- 930.132 Review initiated by the Secretary.
- 930.133 Public notice; receipt of comments; public hearings.
- 930.134 Secretarial review; Federal agency responsibility.

Subpart I - Assistant Administrator Reporting and Continuing Review of Federal Actions Subject to the Federal Consistency Requirements.

- 930.140 Objectives.
- 930.141 Notification of Federal actions believed to be inconsistent with approved management program.
- 930.142 Notification of Federal actions believed to have been incorrectly determined to be inconsistent with an approved management program.
- 930.143 Assistant Administrator reporting.
- 930.144 Assistant Administrator advisory statements.
- 930.145 Review of the implementation of the Federal consistency provisions.

Authority--Secs. 307, 316, 317, Coastal Zone Management Act of 1972, Pub. L. 92-583, 88 Stat. 1280 (16 U.S.C. 1451 et. seq.), as amended by Pub. L. 84-370, 90 Stat. 1013.

FEDERAL CONSISTENCY MATRIX
CATEGORY OF FEDERAL ACTIVITY

	I. Federal activities including development projects	II. Federally licensed and permitted activities	III. Federally licensed and permitted activities described in detail in OCS plans	IV. Federal assistance to State and local governments
Coastal Zone Impact	Directly affecting the coastal zone	Affecting the coastal zone	Affecting the coastal zone	Affecting the coastal zone
Responsibility to notify the State Department of Planning and Economic Development (DPED)	Federal agency proposing the action	Applicant for Federal license or permit	Person submitting OCS plan	Clearinghouse receiving State or local government application for Federal assistance
Notification procedure	Alternatives chosen by Federal agency (subject to NOAA regulations)	Consistency certification in application	Consistency certification in OCS plan	State notification procedure (Presidential E.O. 12372)
Consistency determination	Consistent to the maximum extent practicable with the Hawaii CZM Program	Consistent with the Hawaii CZM Program	Consistent with the Hawaii CZM program	Consistent with Hawaii CZM program
Consistency determination	Made by Federal agency. Review by the State (DPED)	Made by the State (DPED)	Made by the State (DPED)	Made by the State (DPED)
Federal agency responsibility following a disagreement	Federal agency may approve the proposed action following State disagreement after the 90-day notification period	Federal agency may not approve license or permit following State objection	Federal agency may not approve licenses or permits described in detail in the OCS Plan following State objection	Federal agency may not grant assistance following State objection

FEDERAL ACTIVITY CATEGORY

	I. Federal activities including development projects	II. Federally licensed and permitted activities	III. Federally licensed and permitted activities described in detail in OCS plans	IV. Federal assistance to State and local governments
Administrative conflict resolution following State disagreement or objection	Mediation by the U. S. Secretary of Commerce (Subpart G)	Appeal to the U. S. Secretary of Commerce by the applicant or independent Secretarial review (Subpart H)	Appeal to the U. S. Secretary of Commerce by OCS plan proponent or independent Secretarial review (Subpart H)	Appeal to the U. S. Secretary of Commerce by applicant agency or independent Secretarial review (Subpart H)